

REMARKS

The present application was filed on March 31, 2004 with claims 1 through 28. Claims 1 through 28 are presently pending in the above-identified patent application.

In the Office Action, the Examiner rejected claims 1-8, 15-24, 27 and 28 under 35 U.S.C. §102(b) as being anticipated by Carino, Jr. (United States Patent No. 5,754,841; hereinafter Carino), rejected claims 9, 10, 11 and 25 under 35 U.S.C. §103(a) as being unpatentable over Carino in view of Walpole et al. (United States Patent Publication No. 2003/0233464; hereinafter Walpole), and rejected claims 12 and 26 under 35 U.S.C. §103(a) as being unpatentable over Carino in view of Aggarwal et al. (United States Patent Publication No. 2003/0081624; hereinafter Aggarwal). The Examiner indicated that claims 13 and 14 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims

Independent Claims 1, 17 and 28

Independent claims 1, 17, and 28 were rejected under 35 U.S.C. §102(b) as being anticipated by Carino. In particular, the Examiner asserts that Carino discloses selecting, based on one or more QoS criteria corresponding to a client, one or more given data items suitable for sending to the client (abstract; col. 4, lines 9-27; and col. 6, lines 60-67).

Applicants note that Carino teaches, for example, that “these communications are established according to selected performance criteria indicated by a quality of service (QoS) parameter selected by the client 220.” (Col. 6, lines 63-66; emphasis added.) Contrary to the Examiner’s assertions, however, Applicants could find no disclosure or suggestion in Carino that data items are selected based on one or more QoS criteria. Independent claims 1, 17, and 28 require selecting, based on one or more QoS criteria corresponding to a client, one or more given data items suitable for sending to the client.

Thus, Carino does not disclose or suggest selecting, based on one or more QoS criteria corresponding to a client, one or more given data items suitable for sending to the client, as required by independent claims 1, 17, and 28

Additional Cited References

Walpole was also cited by the Examiner for its disclosure of the transcoding of data based on specific QoS criteria. Walpole, however, does not address the subject of selecting

data items based on QoS criteria.

Thus, Walpole does not disclose or suggest selecting, based on one or more QoS criteria corresponding to a client, one or more given data items suitable for sending to the client, as required by independent claims 1, 17, and 28

5 Aggarwal was also cited by the Examiner for its disclosure of QoS criteria levels or predefined QoS levels based on subscriber requirements. Aggarwal, however, does not address the subject of selecting data items based on QoS criteria.

Thus, Aggarwal does not disclose or suggest selecting, based on one or more QoS criteria corresponding to a client, one or more given data items suitable for sending to the client,
10 as required by independent claims 1, 17, and 28.

Dependent Claims 2-16 and 18-27

Dependent 2-8, 15-16, 18-24, and 27 were rejected under 35 U.S.C. §102(b) as being anticipated by Carino, claims 9, 10, 11 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Carino in view of Walpole, and claims 12 and 26 were rejected under 35
15 U.S.C. §103(a) as being unpatentable over Carino in view of Aggarwal

Claims 2-16 and 18-27 are dependent on independent claims 1 and 17, respectively, and are therefore patentably distinguished over Devi, Walpole, and Aggarwal, alone or in combination, because of their dependency from independent claims 1 and 17 for the reasons set forth above, as well as other elements these claims add in combination to their base
20 claim. The Examiner has already indicated that claims 13 and 14 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims

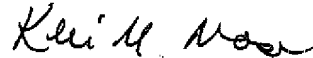
Conclusion

All of the pending claims, i.e., claims 1-28, are in condition for allowance and
25 such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at
5 the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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